





20101021219



Pages: 0016

Recorded/Filed in Official Records Recorder's Office, Los Angeles County, California

07/26/10 AT 03:21PM

FEES: 0 00

TAXES: 0 00

OTHER: 0.00

PAID: 0 00



LEADSHEET



201007261890022

00002714109



002800135

SEQ: 01

DAR - Counter (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED



RECORDING REQUESTED BY:
Los Angeles Unified School District
Office of Environmental Health and Safety
333 South Beaudry Avenue, 27th Floor
Los Angeles, California 90017
Attention: Ms. Yi Hwa Kim

WHEN RECORDED, MAIL TO: Department of Toxic Substances Control 5796 Corporate Avenue Cypress, California 90630 Attention: Ms. Ivy Guaño Schools Team

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

[Re: County of Los Angeles, Assessor Parcel Number: 6008-016-900 (formerly 6008-016-038 as of 12/08/2006)]; DTSC site name: South Region High School #2, more specifically, the Gage LUC Area; DTSC Site Code 304491]

This Covenant and Agreement ("Covenant") is made by and between the Los Angeles Unified School District (the "Covenantor"), the current owner of property situated in Los Angeles, County of Los Angeles, State of California, described in Exhibit "A" and depicted in Exhibit "B," attached, (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471, the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenantor and Department, collectively referred to as the "Parties," hereby agree, pursuant to Civil Code section 1471, and Health and Safety Code section 25355.5 that the use of the Property be restricted as set forth in this Covenant; and the Parties further agree that the Covenant shall conform with the requirements of California Code of Regulations, title 22, section 67391.1.

ARTICLE I STATEMENT OF FACTS

- 1.01 The Property, totaling approximately 4,600 square feet, is more particularly described and depicted in the attached Exhibits "A" and "B". The Property is located in the area now generally bounded by East 63rd Street to the North, East Gage Avenue to the South, Hooper Avenue to the East, and South Central Avenue to the West. The Property is also within the parcel generally described as Los Angeles County Assessor's Parcel No. (APN): 6008-016-900 (formerly 6008-016-038 as of 12/08/2006).
- 1.02. The Property is more particularly illustrated in Exhibit "B," which is attached and incorporated by this reference. The Property is approximately 115 feet wide and approximately 40 feet long and located within the South Region High School #2 (Site) layout. The Site consists of APNs: 6008-013-003, 6008-013-004, 6008-013-005, 6008-013-006, 6008-013-007, 6008-013-008, 6008-013-009, 6008-013-010, 6008-013-011, 6008-013-014, 6008-013-015, 6008-013-016, 6008-013-017, 6008-013-020, 6008-013-021, 6008-013-022, 6008-013-023, 6008-013-024, 6008-013-025, 6008-013-026, 6008-013-027, 6008-013-028, 6008-013-029, 6008-013-030, 6008-013-031, 6008-013-032, 6008-013-033, 6008-013-034, 6008-013-035, 6008-013-036 (formerly 6008-013-012 & 6008-013-013), 6008-013-800, 6008-014-038, 6008-014-043, 6008-014-045, 6008-014-046, 6008-014-047, 6008-014-048, 6008-015-001, 6008-015-002, 6008-015-003, 6008-015-004, 6008-015-005, 6008-015-006, 6008-015-007, 6008-015-008, 6008-015-009, 6008-015-010, 6008-015-011, 6008-015-012, 6008-015-013, 6008-015-017, 6008-015-018, 6008-015-019, 6008-015-020, 6008-015-021, 6008-015-022, 6008-015-023, 6008-015-024, 6008-015-025, 6008-015-026, 6008-015-027, 6008-015-028, 6008-015-029, 6008-015-030, 6008-015-031, 6008-015-032, 6008-015-033, 6008-015-034, 6008-015-035, 6008-015-036, and 6008-016-900 (formerly 6008-015-038).
- 1.03. The Property was remediated as part of the remediation of contamination at the Site. The Property was remediated pursuant to a Remedial Action Plan (RAP) and Remedial Design Document (RDD) developed in accordance with Health and

Safety Code, division 20, chapter 6.8 under the oversight of the Department. The RAP and RDD, including a Health Risk Assessment and an environmental impact report pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq. were released for public review and comment and subsequently approved by the Department on January 31, 2008 and November 9, 2007, respectively.

- 1.04. The RAP and RDD described the remedial action to include, among other things, excavation of contaminated soil to a maximum depth of 15 feet below ground surface (bgs) with disposal at a licensed hazardous waste facility and recordation. The vertical extent of contaminated soil appears to be at a maximum depth of approximately 29.5 feet bgs at the Property. The RAP and RDD required recordation of a land use covenant as part of the site remediation, because arsenic [> 12 milligrams per kilogram (mg/kg)], which is a hazardous substance, as defined in Health and Safety Code section 25316, and a hazardous material as defined in Health and Safety Code section 25260, remains above levels below 15 feet bgs that allow for unrestricted use.
- 1.05. Based on the results of the Preliminary Environmental Assessment and Remedial Investigation Human Health Screening Evaluation, site-specific cleanup goals were developed for the protection of human health using a residential land use scenario. Subsurface soils below 15 feet bgs contain the hazardous substance, as defined in Health and Safety Code 25316, which include the following contaminant of concern: arsenic at levels greater than 12 mg/kg. The concentration of this chemical of concern is above the respective soil cleanup levels established to be protective of human health and the environment for unrestricted use of the Property.
- 1.06 The Removal Action Completion Report (RACR) describes the remedial activities that were conducted to address the impacted soil. The RACR was approved by the Department on June 19, 2008. The Department concluded that the Property, as remediated, and subject to the restrictions of the Covenant, does not present an unacceptable threat to human safety or the environment.

ARTICLE II DEFINITIONS

- 2.01. <u>Department</u>. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.
- 2.02. <u>Environmental Restrictions</u>. "Environmental Restrictions" means all protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.
- 2.03. <u>Improvements</u>. "Improvements" includes, but is not limited to: buildings, structures, roads, driveways, improved parking areas, wells, pipelines, or other utilities.
- 2.04. <u>Lease</u>. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.
- 2.05. Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.
- 2.06. Owner "Owner" means the Covenantor, and all successors in interest including heirs and assigns, who at any time hold title to all or any portion of the Property.

ARTICLE III GENERAL PROVISIONS

3.01. Runs with the Land. This Covenant sets forth Environmental Restrictions that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant: (a) runs with the land pursuant to Health and Safety Code section

25355.5 and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property, (c) is for the benefit of, and is enforceable by the Department, and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

- 3.02. <u>Binding upon Owners/Occupants</u> Pursuant to the Health and Safety Code, this Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive owners of the Property are expressly bound hereby for the benefit of the Department.
- 3.03. <u>Incorporation into Deeds and Leases</u>. This Covenant shall be incorporated by reference in each and every deed and Lease for any portion of the Property.
- Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding Leases, and mortgages, liens, and other non-possessory encumbrances). The written notice shall include the name and mailing address of the new owner of the Property and shall reference the site name and site code as listed on page one of this Covenant. The notice shall also include the APN noted on page one. If the new owner's property has been assigned a different APN, each such APN that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law or by administrative order.
- 3.05. Costs of Administering the Covenant to be paid by Owner. The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, the Covenantor hereby covenants for the Covenantor and for all subsequent Owners that, pursuant to California Code of

Regulations, title 22, section 67391.1(h), the Owner agrees to pay the Department's costs in administering the Covenant.

ARTICLE IV RESTRICTIONS AND REQUIREMENTS

- 4.01 <u>Prohibited Uses</u> The Property shall not be used for any of the following purposes:
 - (a) No activities that will disturb the soil 15 feet bgs (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed on the Property without a Soil Management Plan approved by the Department.
 - (b) Any contaminated soils brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law.
 - (c) The Owner shall provide the Department written notice at least fourteen (14) calendar days prior to any building, filling, grading, mining, or excavating in the limited portion of the Property below 15 feet bgs.

4.02 Soil Management

- (a) No activities that will disturb the soil at or below 15 feet below grade (e.g., excavation, grading, removal, trenching, filling, earth movement, mining, or drilling) shall be allowed on the Property without a Soil Management Plan approved by the Department in advance
- (b) Any impacted soils brought to the surface by soil movement activities shall be managed in accordance with all applicable local, State, and federal requirements

- (c) Owner shall ensure the integrity of the soil above the impacted soil.
- 4.03. <u>Prohibited Activities</u>. The following activities shall not be conducted at the Property:
 - (a) Any use or development that would not preserve the integrity of the soil at the Property.
 - (b) Drilling for water, oil, or gas without prior written approval of the Department and an approved Soil Management Plan
 approved by the Department.
- 4.04. Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health or safety, or the environment.
- 4.05 Access for Implementing Five Year Review. The entity or person(s) responsible for implementing the periodic Five Year Review shall have reasonable right of entry and access to the Property for the purpose of implementing the periodic Five Year Review until the Department determines that no further periodic Five Year Review is required.
- 4.06. Inspection and Reporting Requirements. The Owner shall conduct an annual inspection of the Property verifying compliance with this Covenant, and shall submit an annual inspection report to the Department for its approval by January 31st of each year. The annual inspection report must include the dates, times, and names of those who conducted the inspection and reviewed the annual inspection report. It also shall describe how the observations were performed that were the basis for the statements and conclusions in the annual inspection report (e.g., drive by, fly over, walk in, etc.). If violations are noted, the annual inspection report must detail the steps taken

to return to compliance. If the Owner identifies any violations of this Covenant during the annual inspections or at any other time, the Owner must within seven (7) of identifying the violation: determine the identity of responsible party or scope of violation and take immediate steps to return to compliance. Additionally, copies of any correspondence related to the violation of this Covenant shall be sent to the Department within seven (7) days of its original transmission.

4.07 <u>Five-Year Review</u>. In addition to the annual reviews noted above, after a period of five (5) years from the recordation of the Land Use Covenant and every five (5) years thereafter, Covenanter shall review and reevaluate to determine if human health and the environment are being adequately protected by the remedy as implemented. Within thirty (30) days before the end of each five-year period, Covenanter shall submit a five-year review Workplan to DTSC for review and approval. Within sixty (60) days of DTSC's approval of the workplan, Covenanter shall implement the workplan and submit a report of the results of the five-year review. The report shall describe the results of all inspections, sampling analyses, test and other data generated or received by Covenanter and evaluate the adequacy of the implemented remedy in protecting human health and the environment. As a result of any review work performed, DTSC may require Covenanter to perform additional review work or modify the review work previously performed by Covenanter.

ARTICLE V ENFORCEMENT

5.01 Enforcement. Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any Improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, including but not limited to, failure to submit, or the submission of any false statement, record or report to the Department, shall be grounds for the Department to pursue administrative, civil, or criminal actions, as provided by law

ARTICLE VI VARIANCE, TERMINATION, AND TERM

- 6.01. <u>Variance</u>. Owner, or any other aggrieved person, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code section 25233.
- 6.02 <u>Termination or Partial Termination</u>. Owner, or any other aggrieved person, may apply to the Department for a termination or partial termination of one or more terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25234.
- 6.03 <u>Term.</u> Unless ended in accordance with paragraph 6.02, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII MISCELLANEOUS

- 7.01. <u>No Dedication Intended</u>. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.
- 7.02 Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Los Angeles within ten (10) days of the Covenantor's receipt of a fully executed original.
- 7.03 <u>Notices</u> Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when

delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owner:

Los Angeles Unified School District
Office of Environmental Health and Safety
333 South Beaudry Avenue, 27th Floor
Los Angeles, California 90017
Attention: Ms. Yi Hwa Kim

and

To Department:

Department of Toxic Substances Control 5796 Corporate Avenue Cypress, California 90630 Attention: Ms. Ivy Guaño, Project Manager

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.04 Partial Invalidity If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.05 <u>Statutory References</u> All statutory references include successor provisions.

7.06. <u>Incorporation of Attachments</u>. All attachments and exhibits to this Covenant are incorporated herein by reference.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Covenanter: Los Angeles Unified School District

By (signature): Date: Hard Com, Dep Brice

Department of Toxic Substances Control:

By (signature): Date: D

State of California
County of Los Augeles

On July 21, 2010, before me, Lillian Fernance Notary Public, personally appeared 11 HWa Lim

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

LILLIAN HERNANDEZ
COMM. #1854915
Notary Public-California
LOS ANGELES COUNTY
My Contin. Exp. JUNE 20, 2013

(Seal)

State of California	
County of los Augeles	
~	
, ,	
On 7/26/10 , before me, Victor 7	EV ACEVEDO, Notary Public,
personally appeared 104 GUANO	
who proved to me on the basis of satisfactory evidence	ce to be the person(s) whose
name(s) (s) are subscribed to the within instrument and	d acknowledged to me that
he/fee/they executed the same in his/fee/their author	
his(her/their signature(e) on the instrument the persor	n(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.	
I certify under PENALTY OF PERJURY under the law	s of the State of California that the
foregoing paragraph is true and correct.	

	VICTOR ZEV ACEVEDO Commission # 1815951
WITNESS my hand and official seal	Notary Public - California Los Angeles County
	My Comm. Expires Oct 4, 2012
Manyles	
Signature	(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION LAND USE COVENANT

THE LAND REFFERED TO HEREIN IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF THE SOUTH 30 ACRES OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 13 WEST OF SAN BERNARDINO BASE AND MERIDIAN, ALSO BEING A PORTION OF PART "A" OF PARCEL 2 DESCRIBED IN A DEED RECORDED OCTOBER 10, 2001 AS INSTRUMENT NO 01-1923358, IN THE OFFICE OF COUNTY RECORDER OF SAID COUNTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF 63RD STREET, FORMERLY KNOWN AS MERRILL AVENUE, 40 FEET WIDE, AND THE WEST LINE OF HOOPER AVENUE, 80 FEET WIDE, AS SHOWN ON IRACT NO 5450 RECORDED IN BOOK 59 PAGES 94 AND 95 OF RECORD MAPS, IN THE OFFICE OF COUNTY RECORDER OF SAID COUNTY; THENCE ALONG SAID WEST LINE SOUTH 90°07'05" EAST, 80 00 FEET TO THE NORTH LINE OF GAGE AVENUE; THENCE ALONG SAID NORTH LINE NORTH 89°59'38" WEST, 495 00 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTH LINE NORTH 90°00'22" EAST, 40 00 FEET; THENCE NORTH 89°59'38" WEST, 115 00 FEET; THENCE SOUTH 90°00'22" WEST, 40 00 FEET TO SAID NORTH LINE; THENCE ALONG SAID NORTH LINE SOUTH 89°59'38" EAST, 115 00 FEET TO THE TRUE POINT OF BEGINNING

CONTAINS 4,600 SQUARE FEET, MORE OR LESS.

EXHIBITS "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART THEREOF.

PREPARED UNDER MY DIRECTION

GLENN E CULVER P.L S 5420

LICENSE EXPIRES 09/30/10

GLENN E CULVER C

*Oct. 1,200*8 DATE

